

## Message Text

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ACTION EB-07

INFO OCT-01 EA-07 ISO-00 AID-05 CIAE-00 COME-00 FRB-03

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FM AMEMBASSY KUALA LUMPUR

TO SECSTATE WASHDC 4841

INFO AMEMBASSY SINGAPORE

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E.O. 11652: N/A

TAGS: EINV, MY

SUBJECT: INDUSTRIAL COORDINATION ACT

REFS: A) KUALA LUMPUR 5354; B) KUALA LUMPUR 4590

1. IN SEPTEMBER 30 PRESS CONFERENCE FOLLOWING CALL BY BRITISH TRADE MISSION DIRECTOR, DATUK MOHAMED BIN RAHMAT, DEPUTY MINISTER OF TRADE AND INDUSTRY STATED THAT HIS MINISTRY IS STUDYING POSSIBLE ACTIONS TO "ELIMINATE ANY LOOPHOLES" IN THE INDUSTRIAL COORDINATION ACT (ICA). HE FURTHER STATED THAT SEVERAL WEAKNESSES HAD BEEN FOUND IN THE PROVISIONS OF THE ICA AND THAT STEPS WOULD BE TAKEN TO ELIMINATE THEM.

2. EMBOFF MET WITH ZAINUDDIN BIN HAJI DIN, DIRECTOR OF INDUSTRY DIVISION, MINISTRY OF TRADE AND INDUSTRY (MTI) TO DISCUSS DEPUTY MINISTER'S STATEMENT AND MTI'S INTENTIONS RE ICA. ZAINUDDIN, WHO IS LIAISING AT STAFF LEVEL BETWEEN MTI AND DR. MAHATHIR'S CABINET COMMITTEE ON INVESTMENT, STATED THAT DATUK MOHAMED HAD MADE STATEMENT TO COUNTER WIDESPREAD SPECULATION IN CHINESE BUSINESS COMMUNITY THAT GOM WILLING TO CAVE IN ON ICA. HE CHARACTERIZED PART OF STATEMENT ABOUT "LOOPHOLES" AS UNFORTUNATE AND INACCURATE. WHAT MTI ATTEMPTING TO DO IS AMEND ICA TO MEET OBJECTIONS RAISED BY PRIVATE SECTOR DURING YEAR LONG

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NEGOTIATIONS WITH MTI PRECEDING IMPLEMENTATION OF ACT THROUGH

PROMULGATION OF REGULATIONS ON MAY 1, 1976.

3. OF PARTICULAR CONCERN TO BUSINESSMEN IS FACT THAT, AS PRESENTLY CONSTITUTED, ACT HAS NO PROVISIONS FOR APPEAL AND NO RESTRAINTS ON POSSIBLE ABUSE OF GENERAL POWERS INCLUDING SEARCH OF PLANTS BY MTI WORKING-LEVEL OFFICIALS. MTI ORIGINALLY PLANNED TO RECTIFY THESE DEFICIENCIES ADMINISTRATIVELY THROUGH REGULATIONS SO AS TO DEMONSTRATE GOM PRAGMATISM TO PRIVATE SECTOR. HOWEVER, ATTORNEY GENERAL'S OFFICE INFORMED MTI THAT SCOPE OF ACT, AS PRESENTLY CONSTITUTED, WOULD NOT PERMIT THIS STEP. ZAINUDDIN STATED THAT MTI NOW PLANNING TO ADDRESS THESE ISSUES BY AMENDING ACT AT NEXT SESSION OF PARLIAMENT.

4. ZINUDDIN STATED THAT FEW APPLICATIONS FOR LICENSES HAVE BEEN RECEIVED TO DATE (MANUFACTURERS HAVE UNTIL MAY 1, 1977 TO FILE APPLICATION FOR LICENSE). MTI IS HANDLING THOSE IT RECEIVES QUICKLY AND AS LIBERALLY AS POSSIBLE IN ATTEMPT TO PROVE TO PRIVATE SECTOR CRITICS THAT THERE IS NOTHING TO FEAR FROM ICA. THIS TACTIC HAS NOT SUCCEEDED, HOWEVER, AND ZAINUDDIN EXPECTS THAT MANUFACTURERS WILL DELAY FILING LICENSE APPLICATIONS UNTIL MAY 1 DEADLINE APPROACHES AND IT CLEAR THAT ICA NOT GOING TO BE ABOLISHED OR WEAKENED SUBSTANTIALLY.

5. COMMENT: MTI IS MOVING QUICKLY TO COUNTER GROWING SENSE IN CHINESE COMMUNITY THAT GOM SERIOUSLY WAVERING ON ICA. THIS FEELING HAS BEEN EXPRESSED SEVERAL TIMES TO EMBOFFS SINCE DR. MAHATHIR'S STATEMENT THAT GOM PREPARED TO AMEND ICA. MTI OFFICIALS HAVE OBVIOUSLY SENSED SAME REACTION. MTI WILL NOT DOUBT ATTEMPT TO PLACATE CHINESE COMMUNITY AS MUCH AS POSSIBLE WITHOUT GIVING AWAY STORE BUT THEY NO LONGER ARE IN CONTROL AND ARE ONLY ONE VOICE IN DPM MAHATHIR'S CABINET COMMITTEE ON INVESTMENT. MTI IS HAMPERED IN THEIR APPROACH, HOWEVER, BY CLUMSY WAY IN WHICH THEY HAVE HANDLED ICA "CLARIFICATIONS" TO DATE. WHEREAS PLAN TO AMEND ACT WOULD HAVE BEEN GREETED WITH SOME ENTHUSIASM FEW MONTHS AGO, DR. MAHATHIR'S STATEMENT HAS AROUSED GREATER EXPECTATIONS IN MINDS OF CHINESE BUSINESSMAN SINCE SIGNIFICANT SEGMENT OF CHINESE BUSINESS COMMUNITY (REPRESENTED BY CHINESE CHAMBER OF COMMERCE) HAD EARLIER DISASSOCIATED THEMSELVES FROM NEGOTIATIONS, FINDING MTI'S RESPONSE INADEQUATE.

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THEY LIKELY TO INTERPRET ICA AMENDMENT AS FIRST WEDGE IN DOOR LEADING TOWARDS FURTHER WEAKENING OF ACT RATHER THAN AS GOM FINAL EFFORT TO MEET THEIR REAL CONCERNS. ZAINUDDIN REPORTED THAT EVEN MALAYSIAN CHINESE ASSOCIATION MINISTERS, WHO HERETOFORE HAD BEEN CONSPICUOUS BY THEIR SILENCE ON ICA, WERE BEGINNING TO TALK ABOUT REPEAL. ONLY IF HIGH LEVEL GOM OFFICIALS INDICATE AMENDING ACT IS AS FAR AS GOVERNMENT PREPARED TO GO ARE CHINESE LIKELY TO ACCEPT THAT REPEAL IS NOT IN THE CARDS.

AT THIS TIME IS NOT CLEAR WHETHER OR NOT GOM WOULD, IN EFFORT TO STIMULATE BADLY LAGGING PRIVATE INVESTMENT PROJECTED UNDER TMP, MODIFY ICA BEYOND AMENDMENTS DESCRIBED BY ZAINUDDIN. GOM FACED WITH REAL QUANDRY OVER BASIC QUESTION OF HOW FAR GOM NEED GO IN MEETING CHINESE OBJECTIONS SO THAT INVESTMENT IS FORTH-COMING WHILE STILL HAVING AN ACT THAT WILL ASSURE SUBSTANTIAL PROGRESS IN MEETING NEW ECONOMIC POLICY GOALS PARTICULARLY THE RESTRUCTURING OF SOCIETY. IF MTI HAS ITS WAY, ICA WOULD BE MODIFIED TO MEET ONLY THE MINIMUM POSITION OF CHINESE INVESTORS. HOWEVER, SENIOR GOM POLICY MAKERS, REPRESENTED BY DPM MAHATHIR'S CABINET COMMITTEE, HAVE BROADER RESPONSIBILITY, NOTABLY TO ASSURE THE STEADY RECOVERY AND GROWTH OF THE MALAYSIAN ECONOMY IN ORDER TO ACHIEVE NEP SOCIAL, ECONOMIC AND SECURITY OBJECTIVES. ECONOMY GENERALLY IS NOW MOVING SATISFACTORILY EXCEPT IN THE KEY AREA OF INVESTMENT, ESSENTIAL FOR SUSTAINED GROWTH. REPEAL OF ICA CANNOT REALISTICALLY BE EXPECTED, BUT SIGNIFICANT POSITIVE MOVE BY GOVERNMENT IS REQUIRED TO CLOSE PRESENT CREDIBILITY GAP AND IT IS THIS WHICH CABINET COMMITTEE MUST ADDRESS IN NEAR TERM.

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